

From: ken@sandypoint2.org
Sent: Tuesday, April 05, 2011 11:44 AM
To: !FHFA REG-COMMENTS
Cc: government@caionline.org
Subject: FHFA Proposed Rule on Certain Private Transfer Fee Covenants, (RIN) 2590-AA41

Mr. Alfred Pollard
General Counsel
Federal Housing Finance Agency
700 G Street, NW
Washington DC 20552

RE: Proposed Rule on Private Transfer Fee Covenants, (RIN) 2590-AA41

I am writing to express my support for the Federal Housing Finance Agency's actions to stop investors from charging fees every time houses are sold. These fees do not help the property owner and do not help communities. FHFA is right to prohibit this type of fee. My state, Utah, already has a statute that prevents these kind of abuses. I believe that the FHFA should cease all "investor" transfer fees currently in existence rather than let this dubious practice continue or lobby congress to pass a law retroactively prohibiting such practices. Many buyers and owners were duped into this practice without full disclosure at the time of purchase.

While I am pleased with many of the changes made by FHFA to its proposed guidance, there are provisions in the revised draft that are cause for concern. First, I am concerned that FHFA, by limiting the use of community transfer fee funds solely for maintenance and improvements trespasses on the HOA's self management functions. Our Association uses the transfer fee to pay our management company for setting up the new owners account. This action effectively takes away the elected board's authority to make operational decisions on how best to spend this money in support of the community. FHFA should not dictate to HOA's how they must manage their Association but rather provide guidelines that can be adopted either at the state level as statute or an HOA in their declaration. The decision of how these funds should be used should be dictated by the Declaration, State Statute or the HOA Board.

Another concern is that the draft requires that the association allow non-residents use of the common areas and that we must charge a fee for this access. The association may want to charge a fee for the use of our facilities, but this is the associations decision. Just because the community may vote for a new a transfer fee doesn't mean they give up their right to decide how their common property is used or if and when they allow non-residents access to it. Our declaration restricts the use of the common area's to residents and their guests only. This is a safety issue for our association; we do not want strangers wandering around the community without any accountability for danger to our residents, their children or our property.

Most States require all fees paid to an association be disclosed to a purchaser prior to closing. This is a best practice that is adopted across most of the country. If FHFA is concerned that people don't know about the fees that are paid to associations, then perhaps FHFA could consider adopting this State disclosure system.

Many States have passed laws to prohibit investor transfer fees while leaving in place fees that are reinvested in communities through their associations. FHFA should follow the States' lead and go after the problem—investor transfer fees. There is no justification to change how associations use transfer fees and FHFA will only cause problems by trying to tell residents how to manage their communities.

Sincerely,
Kenneth Larson, CMCA

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